

Terms of Engagement

Steve Keall, Barrister

Application of these terms

1. These terms of engagement apply to all work that I carry out for you unless we agree otherwise in writing. By continuing to instruct me after receiving these terms, you accept them. They should be read together with any engagement documents and letter provided for a particular matter and with the document titled Information for Clients, which sets out required information under the Lawyers and Conveyancers Act (Lawyers: Conduct and Client Care) Rules 2008. Typically, those engagement documents are issued by a solicitor who ordinarily will be my instructing solicitor.

My practice as a barrister

2. I practise as a barrister sole. I may be instructed through an instructing solicitor or, where the applicable rules permit, directly by you. Where there is an instructing solicitor, I will generally receive my instructions from that solicitor, and these terms are to be read together with any engagement documents issued by the solicitor. If you dis-instruct that solicitor, I reserve the right to regard my own appointment as having ended also.
3. Where you instruct me directly, without an instructing solicitor, these terms apply between you and me directly. As a barrister, I cannot undertake certain types of legal work, including transactional matters, and I cannot act as a general agent or attorney. Unless we have agreed otherwise in writing, you have appointed me on a non-exclusive basis.
4. As a barrister, I do not hold money or other valuable property on behalf of clients and I do not operate a trust account. Any funds required to be held on account, including payments of fees in advance, must be held in the trust account of an instructing solicitor or law firm, or otherwise dealt with in an authorised way agreed in writing, such as an escrow arrangement.

Scope of the engagement

5. The services I am to provide will be set out in my engagement letter or otherwise agreed with you or your instructing solicitor. My advice relates only to the matters within that scope and to New Zealand law. I am not responsible for advising on matters outside the agreed scope, on the laws of other jurisdictions, or on tax or accounting issues, unless expressly agreed. My advice is provided for your benefit and for the purposes of the particular matter only, and may not be relied upon by any other person or for any other purpose without my written consent.

Fees, expenses and disbursements

6. My fees are calculated primarily by reference to the time spent on the matter. My current hourly charge out rate is \$650 plus GST. In accordance with the Rules referred to above, my fees must be fair and reasonable for the services provided, having regard to the factors set out in those Rules, which include the time and labour expended, the complexity and urgency of the matter, the skill and specialised knowledge required, and the results achieved.
7. Increasingly, I work on the basis of a day rate rather than an hourly rate. My basic day rate is \$4,000 plus GST. Where I am charging on the basis of a day rate, I record my time in increments of half-days. The engagement letter for your matter will record whether I am charging on an hourly basis or a day rate basis, and I will discuss the appropriate basis with you or your instructing solicitor before commencing work.
8. Where you have linked to this document from a QuickQuery™ on my website, my charges are as described on that page, and the preceding two paragraphs do not apply to that work.
9. Any estimate of fees that I give is a guide based on the information available at the time and is not a fixed quote. I will inform you if it appears that an estimate is likely to be exceeded materially. My rates are reviewed from time to time, and I will give you reasonable notice of any change before it applies to your matter.
10. In addition to fees, you will be charged for disbursements and expenses incurred on your behalf, such as court filing fees, expert fees, agency fees, travel, and courier charges. GST is payable on fees and, where applicable, on disbursements. I may require payment of, or an undertaking in respect of, significant disbursements before they are incurred.

Invoices and payment

11. I will ordinarily issue invoices monthly and on completion of the matter, although I may invoice at other appropriate intervals or stages. Invoices are payable within seven days of the date of the invoice unless otherwise agreed. Where I am instructed through a solicitor, my invoices will be addressed to the instructing solicitor, but you remain ultimately responsible for payment of my fees and disbursements.
12. If an invoice remains unpaid after the due date and there is no genuine dispute about it, I may charge interest on the unpaid amount at a reasonable rate notified to you, suspend work on the matter, or decline to accept further instructions, in each case after giving reasonable notice. You will also be responsible for the reasonable costs of recovering unpaid amounts.
13. I may require payment of fees in advance before commencing or continuing work. Any amount paid in advance will be held in the trust account of your instructing solicitor and applied to my invoices as they are rendered, in accordance with the applicable rules.
14. There is an archaic rule of law to the effect that a barrister cannot sue for his or her fees. We jointly agree and acknowledge that, where I am acting under a direct instruction and there is consequently no other person who could be the claimant, I shall be, and shall have standing to be, the plaintiff party or equivalent in any action to recover my fees. Notwithstanding the continuation of this apparent rule, you agree not to raise or refer to it as a defence in any pleading, evidence, oral or written submission, or in any other way at any stage in any

proceeding, including any review, judicial review or appeal, or in any other action in any forum, including a complaint.

Communications and information

15. I will keep you informed about the progress of your matter and about material developments, and I will respond to your enquiries within a reasonable time. To enable me to act effectively, you agree to provide instructions, information and documents promptly, and to ensure that the information you provide is complete and accurate. I will ordinarily communicate by email unless you ask me to use another method. While I take reasonable precautions, electronic communications can be subject to interception or failure, and I do not accept responsibility for matters outside my reasonable control.
16. I generally communicate in writing by email, using Microsoft Outlook as part of the Microsoft 365 suite, and I store and transmit documents using cloud-based services, including Microsoft OneDrive, SharePoint and Dropbox. Furthermore, I make appropriate use of LLM AI applications such as Claude. Where I use an app like Claude, I may provide it with programmatic access to my file. You agree and acknowledge that it is appropriate for me to use these software applications and services, and comparable replacements from time to time, for our work together. To the extent required, you will familiarise yourself with these applications.

Confidentiality and privilege

17. I will hold in confidence all information concerning you and your affairs that I acquire during the engagement, and I will not disclose that information except to the extent necessary to carry out your instructions, as permitted by you, or as required or permitted by law or by the rules of professional conduct that apply to me. Communications between us for the purpose of obtaining or giving legal advice will generally be protected by legal professional privilege. Privilege belongs to you and can be lost if advice is shared with others, so you should speak with me before disclosing my advice to any third party.

Conflicts of interest

18. Before accepting instructions, and during the engagement, I will use reasonable procedures to identify any conflict of interest. If a conflict or potential conflict arises, I will advise you promptly and follow the requirements of the applicable rules of professional conduct, which may in some circumstances require me to cease acting.

Privacy

19. I will collect, hold and use personal information about you for the purposes of carrying out the engagement, administering my practice, and complying with my legal and professional obligations. I will handle personal information in accordance with the Privacy Act 2020. You have the right to request access to, and correction of, personal information that I hold about you.

Files, documents and document destruction

20. A lawyer is not under any particular obligation to maintain a “file”, and accordingly there is no general obligation to provide a “file” to a client, either while the work is being performed or

subsequently. The work product I provide to you will generally take the form of advice (verbal or written, in which case the advice is the final form of it and not any earlier draft), letters to counterparties, and Court documents. On a request to provide a file, my only obligation is to provide these documents. I am not required to produce drafts, internal research notes, internal memoranda, file notes, or any other document that is not the final work product I have identified, although I may choose to do so. Any time spent conveying documents to you or to a new lawyer will be charged to you, and the invoice must be paid before the documents are provided.

21. My policy is to retain clients' files, in paper or electronic form, for six years, except for some files that I may choose to retain longer. However, I may destroy files at any time at my discretion. Unless you notify me in writing, before a file is destroyed, that you do not wish it to be destroyed, you will be deemed to have consented to that file, whether in paper or electronic form, being destroyed.

Termination of the engagement

22. You may terminate the engagement at any time by written notice to me or through your instructing solicitor. I may terminate the engagement for good cause and on giving you reasonable notice, in accordance with the rules of professional conduct. Good cause includes, for example, non payment of fees, a failure to provide instructions, a conflict of interest, or your requiring me to act contrary to my professional obligations. If the engagement is terminated, you must pay my fees and disbursements incurred up to the date of termination. I reserve the right to end an engagement where I am satisfied the requisite qualities of mutual trust and confidence are absent or where irreconcilable differences between us have arisen.

Limitation of liability

23. To the extent permitted by law, my aggregate liability to you in connection with the engagement, whether in contract, tort, equity or otherwise, is limited to the amount available to be paid out under the professional indemnity insurance held by me at the relevant time in respect of the claim. Nothing in these terms limits or excludes any liability that cannot lawfully be limited or excluded, including liability under the Consumer Guarantees Act 1993 where you are acquiring my services for personal use.

General

24. These terms are governed by New Zealand law, and the New Zealand courts have exclusive jurisdiction in relation to them. If any provision of these terms is held to be unenforceable, the remaining provisions continue to apply. Any variation to these terms must be agreed in writing. These terms apply to the current matter and to any future instructions you give me, whether or not I send you another copy of them.

Steve Keall

Barrister

stevekeall.com

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